

# Order

Michigan Supreme Court  
Lansing, Michigan

March 23, 2016

Robert P. Young, Jr.,  
Chief Justice

ADM File No. 2014-09

Stephen J. Markman

Brian K. Zahra

Bridget M. McCormack

David F. Viviano

Richard H. Bernstein

Joan L. Larsen,

Justices

Amendments of Rule 2.119,  
Rule 7.212, and Rule 7.215  
of the Michigan Court Rules

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On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rule 2.119, Rule 7.212, and Rule 7.215 of the Michigan Court Rules are adopted, effective May 1, 2016.

[The present language is amended as indicated below by underlining  
for new text and strikeover for text that has been deleted.]

## Rule 2.119 Motion Practice

### (A) Form of Motions.

(1) [Unchanged.]

(2) A motion or response to a motion that presents an issue of law must be accompanied by a brief citing the authority on which it is based, and must comply with the provisions of MCR 7.215(C) regarding citation of unpublished Court of Appeals opinions. Except as permitted by the court, the combined length of any motion and brief, or of a response and brief, may not exceed 20 pages double spaced, exclusive of attachments and exhibits. Quotations and footnotes may be single-spaced. At least one-inch margins must be used, and printing shall not be smaller than 12-point type. A copy of a motion or response (including brief) filed under this rule must be provided by counsel to the office of the judge hearing the motion. The judge's copy must be clearly marked JUDGE'S COPY on the cover sheet; that notation may be handwritten.

(3)-(4)[Unchanged.]

(B)-(G)[Unchanged.]

## Rule 7.212 Briefs

(A)-(B)[Unchanged.]

(C) Appellant's Brief; Contents. The appellant's brief must contain, in the following order:

(1)-(6)[Unchanged.]

(7) The arguments, each portion of which must be prefaced by the principal point stated in capital letters or boldface type. As to each issue, the argument must include a statement of the applicable standard or standards of review and supporting authorities, and must comply with the provisions of MCR 7.215(C) regarding citation of unpublished Court of Appeals opinions. Facts stated must be supported by specific page references to the transcript, the pleadings, or other document or paper filed with the trial court. Page references to the transcript, the pleadings, or other document or paper filed with the trial court must also be given to show whether the issue was preserved for appeal by appropriate objection or by other means. If determination of the issues presented requires the study of a constitution, statute, ordinance, administrative rule, court rule, rule of evidence, judgment, order, written instrument, or document, or relevant part thereof, this material must be reproduced in the brief or in an addendum to the brief. If an argument is presented concerning the sentence imposed in a criminal case, the appellant's attorney must send a copy of the presentence report to the court at the time the brief is filed;

(8)-(9)[Unchanged.]

(D)-(I)[Unchanged.]

## Rule 7.215 Opinions, Orders, Judgments, and Final Process for Court of Appeals

(A) Opinions of Court. An opinion must be written and bear the writer's name or the label "per curiam" or "memorandum" opinion. An opinion of the court that bears the writer's name shall be published by the Supreme Court reporter of decisions. A memorandum opinion shall not be published. A per curiam opinion shall not be published unless one of the judges deciding the case directs the reporter to do so at

the time it is filed with the clerk. A copy of an opinion to be published must be delivered to the reporter no later than when it is filed with the clerk. The reporter is responsible for having those opinions published as are opinions of the Supreme Court, but in separate volumes containing opinions of the Court of Appeals only, in a form and under a contract approved by the Supreme Court. An opinion not designated for publication shall be deemed “unpublished.”

(B) Standards for Publication. A court opinion must be published if it:

- (1) establishes a new rule of law;
- (2) construes as a matter of first impression a provision of a constitution, statute, regulation, ordinance, or court rule;
- (3) alters, or modifies, or reverses an existing rule of law ~~or extends it to a new factual context~~;
- (4) reaffirms a principle of law or construction of a constitution, statute, regulation, ordinance, or court rule not applied in a ~~recently~~ reported decision since November 1, 1990;
- (5) involves a legal issue of significant~~continuing~~ public interest;
- (6) criticizes existing law; or
- (7) ~~creates or resolves a~~ an apparent conflict among unpublished Court of Appeals opinions brought to the Court’s attention ~~of authority, whether or not the earlier opinion was reported~~; or
- (8) [Unchanged.]

(C) Precedent of Opinions.

- (1) An unpublished opinion is not precedentially binding under the rule of stare decisis. Unpublished opinions should not be cited for propositions of law for which there is published authority. If a party cites an unpublished opinion, the party shall explain the reason for citing it and how it is relevant to the issues presented. A party who cites an unpublished opinion must provide a copy of the opinion to the court and to opposing parties with the brief or other paper in which the citation appears.

(2) [Unchanged.]

(D)-(J)[Unchanged.]

*Staff Comment:* An unpublished opinion may be cited, for example, if there is no published authority on a given legal proposition or if it is necessary to demonstrate a conflict in interpretation of the law. The changes in MCR 2.119 and MCR 7.212 provide cross-references to MCR 7.215(C).

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 23, 2016

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk